

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)

800 Data Base Access Tariffs and)
the 800 Service Management System)
Tariff and)

CC Docket No. 93-129

DOCKET FILE COPY ORIGINAL

Provision of 800 Services)

CC Docket No. 86-10

REPLY COMMENTS OF
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Southern New England Telephone Company (SNET) replies to the limited comments¹ filed in opposition to its Refund Plan (Plan).² SNET files this Reply pursuant to the Federal Communications Commission's (Commission's) 800 Recon Order.³

SNET addresses the limited claims made by the opposing parties and demonstrates that its Plan is reasonable, fully justified and based upon correct calculations. The opposing parties raise no questions that warrant rejection, or suspension and investigation of SNET's Plan. Specifically:

¹ Opposition filings in the above docketed matter were made by AT&T Corp. (AT&T) and MCI Telecommunications Corp. (MCI) on June 3, 1997. These opposition comments address the calculation of the required refund liability, but not the application of interest, nor SNET's plan to issue credits to customer accounts effective July 1, 1997.

² SNET refund plan, schedule and other support materials was filed on May 14, 1997 in compliance with the Commission's Order In the Matter of 800 Data Base Access Tariffs and 800 Service Management System Tariff, CC Docket No. 93-129; and In the Matter of Provision of 800 Services, CC Docket No. 86-10, Order on Reconsideration, FCC 97-135, released April 14, 1997 (800 Recon Order).

³ Ibid.

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- 1) SNET properly calculated the refund liability including appropriate adjustments for headroom; and
- 2) SNET should not be required to include any adjustment net of Subcategory Band Indices(SBI)-SBI Upper Limit headroom.

I. SNET CALCULATED ITS REFUND LIABILITY PROPERLY.

In contrast to AT&T's and MCI's assertions,⁴ SNET correctly calculated its refund liability by examining each price cap filing impacted by the Commission's 800 Recon Order.⁵ SNET complied with the Commission's requirements by calculating the impact of the disallowed amounts and then recalculating the appropriate PCIs.⁶ The appropriate disallowance includes the available "headroom" because the refund liability should only represent the difference between the rates actually charged during each tariff period in question and the maximum allowable rates, given the disallowance.

First, under the Commission's price cap regime, rates are deemed lawful if the API is less than the PCI.⁷ The Commission's directives concerning the application of allowance for headroom were included in its Order concerning the 1993 Annual Access Tariff Filings, CC Docket No. 93-193, Phase I, Part 2: GSE Order Compliance Filings; In the Matter of 1994, 1995 and 1996 Annual Access Tariff Filings, CC Docket No. 94-65, Memorandum Opinion and Order, FCC 97-139, released April 17, 1997 (Annual Access Order)⁸ specifying that it is

⁴ AT&T at p. 3; and MCI at p. 1.

⁵ See SNET Plan at para. II.

⁶ 800-Recon. Order at paras. 21, 22 and 50.

⁷ See In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87313, FCC 90-89, Supplemental Notice of Proposed Rulemaking, 5 FCC Rcd 2176 (1990) at para. 11.

⁸ See Annual Access Order at para. 105.

appropriate to reduce the PCI disallowance by the available "headroom." In the Annual Access Order, LECs, including SNET, were required to adjust the PCI and then determine the refund liability by calculating the amount by which the API ("actual rates") exceeded the PCI. In addition, the Commission's recent Access Charge Reform, First Report and Order, CC Docket No. 96-252, FCC 97-158, released May 16, 1997, (Access Reform First Report and Order), continues the policy of requiring revenue reductions to the PCI only to extent that the API was greater than any revision to the PCI.⁹ In fact, as MCI acknowledges,¹⁰ SNET correctly calculated the available headroom by comparing rates with the applicable limits associated with each tariff filing in question.

Second, AT&T clearly acknowledges that no rate has been found unlawful, only that LECs have been ordered to adjust their PCIs.¹¹ Nonetheless, both MCI and AT&T attempt to require LECs to refund the entire amount of any PCI change, regardless of the level of actual prices. Additionally, AT&T argues that LECs have not been given credit in annual filings for below band filings in prior years.¹² LECs do, in fact, receive "credit" to the extent that headroom remains under the new PCI because LECs are not required to reduce actual prices. Similarly, SNET received "credit" in its 1994 Annual Access Tariff Filing when it included an exogenous change to reverse its prior low end adjustment. SNET has never been required to make direct and equal rate reductions for such price cap reductions.

⁹ Access Reform First Report and Order at Appendix C - Final Rules, pp. 3-4.

¹⁰ MCI at p. 7.

¹¹ AT&T at p. 4.

¹² AT&T at p. 5

Furthermore, unlike some other price cap local exchange carriers, SNET never achieved earnings to trigger "sharing," therefore, the refund liability did not include any such adjustment for sharing.¹³

Lastly, MCI's and AT&T's claim¹⁴ that SNET must be required to recalculate the PCI adjustment for SBI upper limit headroom is not necessary nor required by the Commission's directives in the 800 Recon. Order. In fact, the 800 Recon Order discusses only the "degree to which the API exceeds the PCI."¹⁵ Since no specific rate elements or service categories have been found unlawful in this proceeding, headroom, as measured by the revised PCI and API differential, is entirely appropriate. Recalculation of all service band indices since 1993 would represent an unnecessary administrative burden.

II. CONCLUSION

Neither MCI nor AT&T raise any issues that require the Commission to reject SNET's 800 Data Base Refund Plan. The Commission should deny the modifications proposed by MCI and AT&T and approve SNET's 800 Refund Plan as proposed. There is no requirement in the Commission's rules to make 800 refunds equal to PCI reductions. Nor is there a requirement for such PCI reductions to include SBI upper limit headroom. SNET's proposed 800 Refund

¹³ AT&T at pp. 6-7 and MCI at pp. 4-5.

¹⁴ MCI at pp. 5-7 and AT&T at fn. 12.

¹⁵ 800 Recon. Order at para. 19.

Plan seeks to minimize administrative costs and effect refunds quickly. To that end, SNET is prepared to issue credits to customer accounts effective July 1, 1997.

Respectfully submitted,

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June 13, 1997

CERTIFICATE OF SERVICE

I, Melanie Abbott, hereby certify that SNET's Reply Comments have been filed this 13th day of June, 1997, to all parties listed below.


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